

106TH CONGRESS
1ST SESSION

S. 1290

To amend title 36 of the United States Code to establish the American Indian Education Foundation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 28, 1999

Mr. INOUE (for himself, Mr. DOMENICI, Mr. DORGAN, Mr. CONRAD, Mr. BINGAMAN, Mr. JOHNSON, Mr. DASCHLE, and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To amend title 36 of the United States Code to establish the American Indian Education Foundation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Indian Edu-
5 cation Foundation Act of 1999”.

6 **SEC. 2. AMERICAN INDIAN EDUCATION FOUNDATION.**

7 (a) IN GENERAL.—Part B of subtitle II of title 36,
8 United States Code, is amended by inserting after chapter
9 215 the following:

**“CHAPTER 216. AMERICAN INDIAN EDUCATION
FOUNDATION**

“Sec.

“21601. Organization.

“21602. Purposes.

“21603. Governing body.

“21604. Powers.

“21605. Principal office.

“21606. Service of process.

“21607. Liability of officers and agents.

“21608. Restrictions.

“21609. Transfer of donated funds.

1 “§ 21601. Organization

2 “(a) FEDERAL CHARTER.—The American Indian
3 Education Foundation (referred to in this chapter as the
4 ‘foundation’) is a federally chartered corporation.

5 “(b) PERPETUAL EXISTENCE.—Except as otherwise
6 provided, the foundation has perpetual existence.

7 “(c) NATURE OF CORPORATION.—The foundation is
8 a charitable and nonprofit corporation and is not an agen-
9 cy or instrumentality of the United States.

10 “(d) PLACE OF INCORPORATION AND DOMICILE.—
11 The foundation is declared to be incorporated and domi-
12 ciled in the District of Columbia.

13 “(e) DEFINITIONS.—In this chapter:

14 “(1) AMERICAN INDIAN.—The term ‘American
15 Indian’ has the meaning given the term ‘Indian’ in
16 section 4(d) of the Indian Self-Determination and
17 Assistance Act (25 U.S.C. 450b(d)).

18 “(2) BUREAU FUNDED SCHOOL.—The term
19 ‘Bureau funded school’ has the meaning given that

1 term in section 1146 of the Education Amendments
2 of 1978 (25 U.S.C. 2026).

3 **“§ 21602. Purposes**

4 “The purposes of the foundation are—

5 “(1) to encourage, accept, and administer pri-
6 vate gifts of real and personal property or any in-
7 come therefrom or other interest therein for the ben-
8 efit of, or in support of, the mission of the Office of
9 Indian Education Programs of the Bureau of Indian
10 Affairs (or its successor office);

11 “(2) to undertake and conduct such other ac-
12 tivities as will further the educational opportunities
13 of American Indians who attend a Bureau funded
14 school; and

15 “(3) to participate with, and otherwise assist,
16 Federal, State, and tribal governments, agencies, en-
17 tities, and individuals in undertaking and conducting
18 activities that will further the educational opportuni-
19 ties of American Indians attending Bureau funded
20 schools.

21 **“§ 21603. Governing body**

22 “(a) BOARD OF DIRECTORS.—

23 “(1) IN GENERAL.—The board of directors (re-
24 ferred to in this chapter as the ‘board’) is the gov-
25 erning body of the foundation. The board may exer-

1 cise, or provide for the exercise of, the powers of the
2 foundation.

3 “(2) COMPOSITION OF BOARD.—Subject to sec-
4 tion 3 of the American Indian Education Founda-
5 tion Act of 1999—

6 “(A) the number of members of the board,
7 the manner of selection of those members, the
8 filling of vacancies for the board, and terms of
9 office of the members of the board shall be as
10 provided in the constitution and bylaws of the
11 foundation; except that

12 “(B) the board shall have at least 11 mem-
13 bers, 2 of whom shall be the Secretary of the
14 Interior and the Assistant Secretary of the In-
15 terior for Indian Affairs, who shall serve as ex
16 officio nonvoting members.

17 “(3) CITIZENSHIP OF MEMBERS.—The mem-
18 bers of the board shall be United States citizens who
19 are knowledgeable or experienced in American In-
20 dian education and shall, to the extent practicable,
21 represent diverse points of view relating to the edu-
22 cation of American Indians.

23 “(b) OFFICERS.—

24 “(1) IN GENERAL.—The officers of the founda-
25 tion shall be a secretary elected from among the

1 members of the board and any other officers pro-
 2 vided for in the constitution and bylaws of the foun-
 3 dation.

4 “(2) QUALIFICATIONS AND DUTIES OF SEC-
 5 RETARY.—The secretary shall—

6 “(A) serve, at the direction of the board,
 7 as its chief operating officer; and

8 “(B) be knowledgeable and experienced in
 9 matters relating to education in general and
 10 education of American Indians in particular.

11 “(3) ELECTION, TERMS, AND DUTIES OF MEM-
 12 BERS.—The manner of election, term of office, and
 13 duties of the officers shall be as provided in the con-
 14 stitution and bylaws of the foundation.

15 “(c) COMPENSATION.—

16 “(1) IN GENERAL.—Except as provided in para-
 17 graph (2), no compensation shall be paid to a mem-
 18 ber of the board by reason of service as a member.

19 “(2) TRAVEL EXPENSES.—A member of the
 20 board shall be reimbursed for actual and necessary
 21 travel and subsistence expenses incurred by that
 22 member in the performance of the duties of the
 23 foundation.

24 **“§ 21604. Powers**

25 “The foundation—

1 “(1) shall adopt a constitution and bylaws for
2 the management of its property and the regulation
3 of its affairs, which may be amended;

4 “(2) shall adopt and alter a corporate seal;

5 “(3) may make contracts, subject to the limita-
6 tions of this chapter;

7 “(4) may acquire (through a gift or otherwise),
8 own, lease, encumber, and transfer real or personal
9 property as necessary or convenient to carry out the
10 purposes of the foundation;

11 “(5) may sue and be sued; and

12 “(6) may carry out any other act necessary and
13 proper to carry out the purposes of the foundation.

14 **“§ 21605. Principal office**

15 “The principal office of the foundation shall be in the
16 District of Columbia. The activities of the foundation may
17 be conducted, and offices may be maintained, throughout
18 the United States in accordance with the constitution and
19 bylaws of the foundation.

20 **“§ 21606. Service of process**

21 “The foundation shall comply with the law on service
22 of process of each State in which it is incorporated and
23 of each State in which the foundation carries on activities.

1 **“§ 21607. Liability of officers and agents**

2 “The foundation shall be liable for the acts of its offi-
 3 cers and agents acting within the scope of their authority.
 4 Members of the board shall be personally liable only for
 5 gross negligence in the performance of their duties.

6 **“§ 21608. Restrictions**

7 “(a) LIMITATION ON SPENDING.—Beginning with
 8 the fiscal year following the first full fiscal year during
 9 which the foundation is in operation, the administrative
 10 costs of the foundation may not exceed 10 percent of the
 11 sum of—

12 “(1) the amounts transferred to the foundation
 13 under section 21609 during the preceding fiscal
 14 year; and

15 “(2) donations received from private sources
 16 during the preceding fiscal year.

17 “(b) APPOINTMENT AND HIRING.—The appointment
 18 of officers and employees of the foundation shall be subject
 19 to the availability of funds.

20 “(c) STATUS.—The members of the board, and the
 21 officers, employees, and agents of the foundation shall not,
 22 by reason of their association with the foundation, be con-
 23 sidered to be officers, employees, or agents of the United
 24 States.

1 **“§ 21609. Transfer of donated funds**

2 “The Secretary of the Interior may transfer to the
3 foundation funds held by the Department of the Interior
4 under the Act of February 14, 1931 (46 Stat. 1106, chap-
5 ter 171; 25 U.S.C. 451), if the transfer or use of such
6 funds is not prohibited by any term under which the funds
7 were donated.”.

8 (b) CLERICAL AMENDMENT.—The table of chapters
9 for part B of subtitle II of title 36, United States Code,
10 is amended by inserting after the item relating to chapter
11 215 the following:

“216. American Indian Education Foundation21601”.

12 **SEC. 3. INITIAL PERIOD AFTER ESTABLISHMENT.**

13 (a) BOARD OF DIRECTORS.—

14 (1) INITIAL BOARD.—Not later than 6 months
15 after the date of enactment of this Act, the Sec-
16 retary of the Interior shall appoint the initial voting
17 members of the board of directors under section
18 21603 of title 36, United States Code (referred to
19 in this section as the “board”). The initial members
20 of the board shall have staggered terms (as deter-
21 mined by the Secretary of the Interior).

22 (2) SUCCESSIVE BOARDS.—The composition of
23 all successive boards after the initial board shall be
24 in conformity with the constitution and bylaws of
25 the American Indian Education Foundation orga-

nized under chapter 216 of title 36, United States Code (referred to in this section as the “foundation”).

(b) ADMINISTRATIVE SERVICES AND SUPPORT.—

(1) PROVISION OF SUPPORT BY SECRETARY.—

Subject to paragraph (2), during the 5-year period beginning on the date of enactment of this Act, the Secretary of the Interior—

(A) may provide personnel, facilities, and other administrative support services to the foundation;

(B) may provide funds to reimburse the travel expenses of the members of the board under section 21603(c)(2) of title 36, United States Code; and

(C) shall require and accept reimbursements from the foundation for any—

(i) services provided under subparagraph (A); and

(ii) funds provided under subparagraph (B).

(2) REIMBURSEMENT.—Reimbursements accepted under paragraph (1)(C) shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing

1 services described in paragraph (1)(A) and the travel
2 expenses described in paragraph (1)(B).

3 (3) CONTINUATION OF CERTAIN SERVICES.—

4 Notwithstanding any other provision of this section,
5 the Secretary of the Interior may continue to pro-
6 vide facilities and necessary support services to the
7 foundation after the termination of the 5-year period
8 specified in paragraph (1), on a space available, re-
9 imburseable cost basis.

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